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EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,632

Applicant(s)

TARBOX ET AL.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-15 and newly added claims 16-62 are pending.
2. The IDS filed 08/06/03 has been entered as paper no. 6.
3. Pre-Amendment A filed 08/06/03 has been entered as paper no. 7.
4. The Petition filed 08/11/03 has been entered as paper no. 4.
5. The Petition was granted 09/29/03 and entered as paper no. 5.

Abstract Objection

6. The abstract of the disclosure is objected to because the abstract of the disclosure exceeds 150 words in length.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. Correction is required. See MPEP § 608.01(b).

Specification

7. The Specification is objected to because of the following informalities: Page 3, line 5 recites "Retirement Saving Adequacy," Journal of Risk & Insurance 65(3), 371-400,. This line should recite "Retirement Saving Adequacy," Journal of Risk & Insurance 65(3), 371-400,. Page 9, lines 5-8 has a similar problem. Page 33, line 2 recites "the disbursement mode 16 (e.g., after employment). At ..., individual". This

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should recite "the disbursement mode 16 (e.g., after employment). At ..., individual".

Correction is required. See MPEP § 608.01(b).

Claim Objections

8. Claims 1, 2-8, 13, and 15 are objected to because of the following informalities:

Claim 1, line 6 reads "management at a' more ...". This claim should read

"management at a more ...".

Claims 1, 2, and 13 in the preamble would be better read "A computer system ...".

Claim 2, line 3 recites "... plurality sources ...". This line would be better recited "... plurality of sources ..." and line 8 recites "... relative each individual ...". Line 8 would be better recited "... relative to each individual ...". Claim 3 has a period (.) missing at the end of the claim. Claim 4 has a similar problem. Claim 5, line 3 of the preamble recites "vehicles means further comprising:". Do Applicants' mean "vehicle means further comprising:"? Claims 6-8 have a similar problem. Claim 6, lines 4 and 5 recite ".. based on a data ..., a third party, a facilitator ...". Do Applicants' mean ".. based on data ..., a third party, and a facilitator ..." or ".. based on data ..., a third party, or a facilitator ..."? Claim 13, lines 6, 7, and 9 recite "..., the asset class(s) may including varying proportions of shares (or other interests ... least two assets classes ...". This claim would be better recited "..., the asset class or classes may include varying proportions of shares or other interests ... least two asset classes ...". Claim 15, lines 17 and 18 recite "... at least (1) ... at least two (2) asset classes." Do Applicants' mean "... at least one ... at least two asset classes"? Clarification and

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correction is respectfully requested. Claim 42, line 2 recites "investor, a third party acting on behalf of an individual ...". This claim limitation would be better recited "investor, a third party acting on behalf of an individual ...". Claim 52, line 1 recites "... wherein the asset class may including". This claim limitation would be better recited "... wherein the asset class may include". Applicants' are respectfully requested to check the claims for other typographical, spelling, and grammatical errors.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1, 3, 8, 13, 21, 34, and 37 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. Claims 1, 21, 34, and 37 recite the limitation "and/or". It is unclear whether Applicant means "allocation and savings" or "allocation or savings" in claim 1, claim 21 reciting "whether and how" or "whether or how", claim 34 reciting "whether and how" or "whether or how", and claim 37 reciting "fees and profits" or "fees or profits". Claim 3, line 5 recites "... investor the opted out". It is not clear what applicants' are trying to say in this claim limitation. For examination purposes, the Examiner interprets the claim limitation to read "... investor that opted out." Claim 8 reciting "allocating/rebalancing/reallocating" is unclear. Does Applicant mean "allocating and rebalancing and reallocating" or "allocating or rebalancing or reallocating" or "allocating, rebalancing, or reallocating" or "allocating, rebalancing, and reallocating"?

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Claim 13 reciting "asset class(s) ... (or other interests)..." Does Applicant mean "asset classes ... or other interests" or asset class ... or other interests"?

Preliminary Matters

11. As a preliminary matter the Applicants' are respectfully requested to submit the following references in order to give their application a proper examination: In the Specification; page 5, lines 11-13 "Poterba, Venti and Wise (1994), Andrews (1992), and Bassett, Fleming and Rodrigues (1998) for academic studies and Fidelity Investments (1999) for a consulting report", page 8, lines 18-20; "a study conducted by Hewitt Associates and released July 2000 [Hewitt Associates (in conjunction with Harvard University and the Wharton School of the University of Pennsylvania)", page 9, lines 5-8; "the Madrian and Shea (2000) study (Madrian, Brigitte C.; Shea, Dennis F. "The Power of Suggestion; Inertia in 401(k) Participation and Savings Behavior," NBER Working Paper No. W7682, May 2000), page 11, lines 10-14, "Investment Without Education, The Disparate Impact of Women And Minorities in Self-Directed Defined Contribution Plans," by Jane Elizabeth Zaglein published in 2001 in the Employee Rights and Employment Policy Journal at 5 Empl. Rts. & Employ. Pol'y J. 223.); page 13, lines 27-29 "Roger G. Ibbotson and Paul D. Kaplan, "Does Asset Allocation Policy Explain 40%, 90%, or 100% of Performance?", Financial Analysts Journal, January/February 2000", page 17, lines 4-9; Study (Conflicts of Interest and the Credibility of Underwriter Analyst Recommendations by Michaelaely and Wolmack published in 1999) cited before Congress in the hearings in Congress held on June 14, 2001, by the Committee on Financial Services, Subcommittee on Capital Markets,

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Insurance and Government Sponsored Enterprises on "Analyzing the Analysts: Are Investors Getting Unbiased Information from Wall Street".

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 15-27, 30-38, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by (US 5,126,936) Champion et al, hereafter Champion.

With respect to claim 1, Champion teaches, A system for automatically providing asset allocation services to individual investors comprising:
a data processing system for providing Expert independent asset allocation on a basis that minimizes the input and time of investors and assists them in establishing savings programs and offering professional asset management at a more efficient cost structure and eliminates or reduces all of the conflicts of interest that would exist in all the presently known schemes of providing investment allocation and/or savings programs to investors (col. 3, lines 8-12, col. 4, lines 52-67, and col. 5, lines 1-18).

With respect to claim 15, Champion teaches, A computer implemented method for providing independent asset allocation and savings programs to individuals for investing in two or more asset classes including professionally managed, cost efficient, commingled investment vehicles while eliminating or ameliorating the conflict of interest between establishing asset allocation and investment programs and other functions

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such as money management, the method comprising the acts of developing mechanisms that elicit the funding needs of each individual (col. 3, lines 30-49); developing a savings program and an asset allocation model to comprising at least one asset class generally using generally accepted principles of modern portfolio theory (col. 4, lines 52-65); applying the data from a plurality of sources to the asset allocation model; coordinating the savings program with the asset allocation model(col. 4, lines 3-21); determining an appropriate investment vehicle or combination of vehicles for the individual(col. 3, lines 23-29); and implementing investments in at least one asset class or at least (1) combination of at the at least two (2) asset classes(col. 1, lines 50-67).

With respect to claim 16, this independent claim is rejected for the similar rationale as given above for claims 1 and 15.

With respect to claims 17 and 30, Champion teaches, The system of claim 16, wherein the input of time spent thereon by an individual is Minimized (col. 5, lines 40-57).

With respect to claims 18 and 31, Champion teaches, The system of claim 16, wherein the individual is an investor or a person acting on behalf of an investor or investors (col. 2, lines 40-57).

With respect to claims 19 and 32, Champion teaches, The system of claim 16, wherein the automatic asset management is offered at a more efficient cost structure (col. 1, lines 36-49).

With respect to claims 20 and 33, this dependent claim is rejected for the similar rationale given above for claim 16.

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With respect to claims 21 and 34, Champion teaches, The system of claim 16, further comprising: means for reducing possible economic conflicts of interest by appropriately selecting whether and/or how to separate or combine the determination of how to allocate investment assets from other functions (col. 2, lines 41-60).

With respect to claims 22 and 35, Champion teaches, The system of claim 21, wherein at least one of the other functions comprises asset management (col. 4, lines 52-67 and col. 5, lines 1-18).

With respect to claims 23, Champion teaches, The system of claim 16, wherein the asset allocation comprises employing an Independent Person such as an Independent Expert (col. 2, lines 22-28).

With respect to claim 24, Champion teaches, The system of claim 23, wherein the independent Person receives fees; which are generally or totally independent from fees or profits charged or received in connection with asset, management (col. 1, lines 36-49).

With respect to claim 25, Champion teaches, The system of claim 16, wherein an Independent Person such as an Independent Expert determines or approves the basis for asset allocation (col. 2, lines 22-28).

With respect to claims 26, 36, and 38, Champion teaches, The system of claim 25, wherein the Independent Person is generally or totally independent from and unrelated to any person who receives compensation in connection with asset allocation or to any person who receives compensation in connection with asset management (col. 4, lines 52-67 and col. 5, lines 1-7).

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With respect to claim 27, Champion teaches, The system of claim 16, further comprising: means for assuring that the asset management is performed by one or more investment managers who are unaware of the individual allocations but instead see only the aggregate of assets to be managed (col. 5, lines 8-18 and lines 40-57).

With respect to claim 41, Champion teaches, A system for providing automatic, asset allocation services comprising: data storage for storing data from at least one source for a plurality of entities (col. 5, lines 64-67 and col. 6, lines 1-12); an asset allocation model for automatically determining varying proportions of at least one investment vehicle, the asset allocation model being designed or approved by an Independent Person such as an Independent Expert (Fig.'s 1A-1D); and means for processing the data relative to at least one of the entities such that the asset allocation is automatically calculated and implemented for the at least one entity (col. 5, lines 31-57).

With respect to claim 42, Champion teaches, The system of claim 41, wherein at least one entity is an individual investor, a third party acting on behalf of an individual investor or a facilitator (col. 4, lines 29-51).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

16. Claims 2-14, 29, 37, 39, 40, and 43-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,126,936) Champion et al, hereafter Champion in view of (US 6,012,043) Albright et al, hereafter Albright.

With respect to claim 2, Champion teaches, A system for automatically providing asset allocation services to individual investors comprising:
data storage for storing data from a plurality sources for a plurality of individual investors (col. 5, lines 57-67); an asset allocation model for automatically determining varying proportions of a plurality of investment vehicles designed or approved by an

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Independent Expert (Figure 2); and means for processing the data relative each individual such that the optimum asset allocation is automatically calculated and implemented for each to individual investor (col. 3, lines 30-49, col. 4, lines 52-65, and Fig. 1E (1-3).

Champion failed to teach, means for generating a report that informs each individual investor at least of the specific asset allocations made, the total account balance and periodic contributions without direction from any individual investor. Albright teaches, means for generating a report that informs each individual investor at least of the specific asset allocations made, the total account balance and periodic contributions without direction from any individual investor (col. 3, lines 14-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a means for generating a report that informs each individual investor at least of the specific asset allocations made, the total account balance and periodic contributions without direction from any individual investor and to modify in Champion because such a modification would allow Champion to have a number of financial scenarios to select from that contain useful information to be presented in a report.

With respect to claim 3, Champion teaches, The system of claim 2 further comprising: in the event an individual investor should opt out of the automatic asset allocation services, means for processing the data from each individual investor such that a tangible recommendation as to asset allocation is generated and sent to each individual investor that opted out (col. 5, lines 40-67 and col. 6, lines 1-12).

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With respect to claim 4, Champion teaches, The system of claim 3 further comprising: means for correlating the retirement needs and life cycle stage with an appropriate asset allocation (col. 4, lines 29-51).

With respect to claim 5, Champion teaches, The system of claim 3 wherein the asset allocation model for automatically determining varying proportions of a plurality of investment vehicles means further comprising: means for determining automatic asset allocation based on a minimum data requirement as determined or approved by an independent expert (col. 4, lines 52-67 and col. 5, lines 1-19 and lines 47-57).

With respect to claim 6, Champion teaches, The system of claim 3 wherein the asset allocation model for automatically determining varying proportions of a plurality of investment vehicles means further comprising: means for automatically rebalancing asset allocation based on a data received from the investor, a third party, a facilitator on a regular basis as solely determined or approved by an independent expert (col. 6, lines 33-50).

With respect to claim 7, Champion teaches, The system of claim 3 wherein the asset allocation model for automatically determining varying proportions of a plurality of investment vehicle means further comprising: means for automatically reallocating asset allocation based on a data received from the investor, a third party, a facilitator on a regular basis as solely determined or approved by an independent expert (col. 6, lines 12-62).

With respect to claim 8, Champion teaches, The system of claim 3 wherein the asset allocation model for automatically determining varying proportions of a plurality of

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investment vehicles means further comprising: means for automatically allocating/rebalancing/reallocating investment assets based on data from a variety of sources, as designed or approved by an Independent Expert (col. 6, lines 51-67, col. 7, lines 1-67, and col. 8, lines 1-12).

With respect to claim 9, Champion teaches, The system of claim 1 further comprising: means for eliminating or at least ameliorating possible economic conflict of interest by separating or appropriately combining, the determination of how much to save and how to allocate investment assets from other fee generating functions such as investment management (col. 1, lines 15-49).

With respect to claim 10, Champion teaches, The system of claim 1 wherein the Independent Expert determines or approves the asset allocation and savings rate and receives fees totally independent from the fees charged for investment management (col. 1, lines 50-67).

With respect to claim 11, Champion teaches, The system of claim 1 wherein the Independent Expert is generally or totally independent from and unrelated to any other person who receives compensation in connection with the subject transactions, including a decision not to change any decision including asset allocations and including any investment manager (col. 5, lines 1-18 and lines 61-67 and col. 6, lines 1-5) .

With respect to claim 12, Champion teaches, The system of claim 1 further comprising: means for assuring that the investment manager is unaware of the individual pension participant investments, but rather sees only the aggregate investments of a Benefit Plan (col. 4, lines 29-51).

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With respect to claim 13, Champion teaches, A system for providing asset allocation and savings services to individuals comprising: a data storage for storing data from a plurality of sources, including the individual (col. 3, lines 8-12, col. 4, lines 52-67, and col. 5, lines 1-18); and means for processing the data from each source such that a savings program as well as an asset allocation model consisting of at least one asset class is established, the asset class(s) may including varying proportions of shares (or other interests) in a plurality of investments, possibly including collective investment vehicles (col. 4, lines 52-67 and col. 5, lines 1-18).

Champion failed to teach, a means for allocating assets into a combination of at least two assets classes as appropriate for each individual and generating a tangible report recommending, or directly establishing a savings program that is appropriate for each individual. Albright teaches, a means for allocating assets into a combination of at least two assets classes as appropriate for each individual and generating a tangible report recommending, or directly establishing a savings program that is appropriate for each individual (col. 8, lines 27-36, col. 9, lines 19-66, and col. 10, lines 1-31).

With respect to claim 14, Champion teaches, A computer implemented method for automatically providing asset allocation services to individual investors comprising the steps of: providing data storage for storing data from a plurality of sources for a plurality of individual investors (col. 3, lines 8-12, col. 4, lines 52-67, and col. 5, lines 1-18; developing an asset allocation model for automatically determining varying proportions of a plurality of investment vehicles designed or approved by an Independent Expert (Fig. 2); applying the data to the asset allocation model (Fig. 1A-

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1E); and automatically determining an appropriate investment vehicle for the individual (col. 4, lines 1-21). Champion failed to teach, generating a report that informs each individual investor at least of the specific asset allocations made, the total account balance and periodic contributions without direction from any individual investor. Albright teaches, generating a report that informs each individual investor at least of the specific asset allocations made, the total account balance and periodic contributions without direction from any individual investor (col. 3, lines 14-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to generate a report that informs each individual investor at least of the specific asset allocations made, the total account balance and periodic contributions without direction from any individual investor and to modify in Champion because such a modification would allow Champion to customize the output of the retirement plan to the customer in a report.

With respect to claim 29, Champion teaches, The system of claim 28, wherein one of the other services offered is automatic asset management (col. 4, lines 3-21).

With respect to claim 37, Champion teaches, The system of claim 36, wherein the Independent Person receives fees that are generally or totally independent from the fees and/or profits received for asset management (col. 3, lines 30-49).

With respect to claim 39, Champion failed to teach, The system of claim 28, wherein an Independent Person such as an Independent Expert determines or approves the basis on which savings programs are established.

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Albright teaches, The system of claim 28, wherein an Independent Person such as an Independent Expert determines or approves the basis on which savings programs are established (col. 19, lines 46-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an Independent Person such as an Independent Expert determine or approve the basis on which savings programs are established and to modify in Champion because such a modification would allow Champion to have an option showing the customer's retirement expense level and to determine that the customer cannot be adequately funded at retirement at the preferred retirement age with 100% of the basic living expenses and a feasible retirement plan with options at the expense of saving more money now.

With respect to claim 40, Champion teaches, The system of claim 28, further comprising: means for assuring that the asset management is performed by an investment manager who' is unaware of the individual contributions but instead sees only the aggregate of assets to be managed (col. 4, lines 29-51).

With respect to claim 43, Champion failed to teach, The system of claim 41, further comprising: means for generating a report that informs the at least one entity at least of the specific asset allocations made, the total account balance and periodic contributions without direction from the entity. Albright teaches, The system of claim 41, further comprising: means for generating a report that informs the at least one entity at least of the specific asset allocations made, the total account balance and periodic contributions without direction from the entity (col. 12, lines 44-67, col. 13, lines 1-18,

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and col. 14, lines 1-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a means for generating a report that informs the at least one entity at least of the specific asset allocations made, the total account balance and periodic contributions without direction from the entity and to modify in Champion because such a modification would allow Champion to identify retirement goals by reviewing a report of retirement savings. It is well known that employer's provide their employees who are enrolled in a 401(k) plan a statement of their savings and earnings.

With respect to claim 44, Champion teaches, The system of claim 43, further comprising: in the event an entity should opt out of the system for providing automatic asset allocation services, means for processing the data from that entity, such that a tangible recommendation as to asset allocation is generated and sent to the entity that opted out or to a third party acting on behalf of the entity (col. 5, lines 3-18 and col. 6, lines 33-50).

With respect to claim 45, Champion teaches, The system of claim 41, further comprising: means for correlating asset allocation for the at least one entity with that entity's retirement needs and life cycle stage (col. 2, lines 12-21).

With respect to claim 46, Champion failed to teach, The system of claim 41, wherein the asset allocation model for automatically determining varying proportions of at least one investment vehicle comprises; means for determining automatic asset allocation based on a minimum data requirement as determined or approved by the Independent Person. Albright teaches, The system of claim 41, wherein the asset

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allocation model for automatically determining varying proportions of at least one investment vehicle comprises; means for determining automatic asset allocation based on a minimum data requirement as determined or approved by the Independent Person (col. 10, lines 33-67 and col. 11, lines 1-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the asset allocation model for automatically determining varying proportions of at least one investment vehicle comprises; means for determining automatic asset allocation based on a minimum data requirement as determined or approved by the Independent Person and to modify in Champion because such a modification would allow Champion to customize the process for each customer based on customer-specific input and limit the freedom of decisions and in some cases, force certain decisions to be consistent for all customers.

With respect to claim 47, Champion teaches, The system of claim 41, wherein the asset allocation model for automatically determining varying proportions of at least one investment vehicle comprises: means for automatically reallocating assets based on data received from or on behalf of the at least one entity as determined or approved by the independent Person (col. 4, lines 52-65).

With respect to claim 48, Champion teaches, The system of claim 47, wherein the assets are reallocated on a regular or irregular basis (col. 7, lines 66-67 and col. 8, lines 1-5).

With respect to claim 49, Champion teaches, The system of claim 41, wherein the asset allocation model for automatically determining varying proportions of at least

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one investment vehicle comprises: means for automatically allocating, rebalancing or reallocating assets based on data from a variety of sources, as designed or approved by the Independent Person (col. 8, lines 5-22 and col. 10, lines 7-14).

With respect to claim 50, Champion teaches, A system for providing asset allocation and savings. services to individuals comprising: a data storage for storing data from at least one entity (col. 5, lines 64-67 and col. 6, lines 1-12) and means for allocating assets into a combination of at least one asset class as appropriate for each entity (col. 3, lines 30-49).

Champion failed to teach, means for processing the data from each entity such that a savings program as well as an asset allocation model consisting of at least one asset class is established. Albright teaches, means for processing the data from each entity such that a savings program as well as an asset allocation model consisting of at least one asset class is established (col. 19, lines 36-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a means for processing the data from each entity such that a savings program as well as an asset allocation model consisting of at least one asset class is established and to modify in Champion because such a modification would allow Champion to have an adequately funded retirement at the preferred retirement age with 100% of basic living expenses replaced in retirement, considering the customer's current savings level.

With respect to claim 51, Champion teaches, The system of claim 50, wherein the entity is an individual (col. 3, lines 30-34).

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With respect to claim 52, Champion teaches, The system of claim 50, wherein the asset class may include varying proportions of shares or other interests in a plurality of investments (col. 4, lines 52-65 and fig. 1E).

With respect to claim 53, Champion teaches, The system of claim 50, wherein the plurality of investments include collective investment vehicles (col. 6, lines 13-33).

With respect to claim 54, Champion failed to teach, The system of claim 50, further comprising: means for generating a tangible report recommending or directly establishing a savings program that is appropriate for each entity. Albright teaches, The system of claim 50, further comprising: means for generating a tangible report recommending or directly establishing a savings program that is appropriate for each entity (col. 25, lines 24-67 and col. 27, line 1-col. 37, line 32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have means for generating a tangible report recommending or directly establishing a savings program that is appropriate for each entity and to modify in Champion because such a modification would allow Champion to identify priorities of adjustments to the retirement goals by reviewing a report.

With respect to claim 55, this independent claim is rejected for the similar rationale given above for claims 14 and 50.

With respect to claim 56, this dependent claim is rejected for the similar rationale given above for claim 14.

Claim Rejections - 35 USC § 102

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17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by (US 6,012,043) Albright et al, hereafter Albright.

With respect to claim 28, Albright teaches, A system for automatically providing savings services comprising: a data processing system for generally or totally independent assistance to an individual in establishing or maintaining savings programs in combination with other services in such a manner that conflicts of interest are reduced (col. 4, lines 12-45).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,278,981) Dembo et al, hereafter Dembo in view of (US 5,126,936) Champion et al, hereafter Champion.

With respect to claim 57, Dembo teaches, A computer implemented method for providing independent asset allocation and savings programs to individuals for investing

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in one or more asset classes while eliminating or ameliorating conflicts of interest, the method comprising the acts of: developing an asset allocation model comprising at least one asset class using generally accepted principles of modern portfolio theory (col. 1, lines 40-67 and col. 2, lines 39-59).

This independent claim is rejected for the similar rationale given above for claim 15.

With respect to claim 58, Dembo failed to teach, The method of claim 57, wherein the conflicts of interest ameliorated or eliminated include a conflict between establishing asset allocation and investment programs and money management functions. Champion teaches, wherein the conflicts of interest ameliorated or eliminated include a conflict between establishing asset allocation and investment programs and money management functions (col. 6, lines 13-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the conflicts of interest ameliorated or eliminated include a conflict between establishing asset allocation and investment programs and money management functions and to modify in Dembo because such a modification would allow Dembo to have an event that involves Pre-trade adjustments made to an account pursuant to the entered changes.

With respect to claim 59, Dembo failed to teach, The method of claim 57, further comprising the act of developing mechanisms that elicits the funding needs of each individual. Champion teaches, The method of claim 57, further comprising the act of developing mechanisms that elicits the funding needs of each individual (col. 5, lines 1-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the act of developing mechanisms that elicits the funding

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needs of each individual and to modify in Dembo because such a modification would allow Dembo to have a composite position of the participating investors calculated for each asset group offered by the system proprietor.

21. Claims 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,278,981) Dembo et al, hereafter Dembo in view of (US 5,126,936) Champion et al, hereafter Champion and further in view of (US 6,012,043) Albright et al, hereafter Albright.

With respect to claim 60, Dembo and Champion failed to teach, The method of claim 57, further comprising the act of developing a savings program. Albright teaches, the act of developing a savings program (col. 42, lines 45-67, col. 43, line 1-col. 44, line 32, and Fig. 4b). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the act of developing a savings program and to modify in Dembo because such a modification would allow Dembo to have determine the annual savings level needed for a given retirement date.

With respect to claim 61, Dembo and Champion failed to teach The method of claim 60, further comprising the act of coordinating the savings program with the asset allocation model. Albright teaches, the act of coordinating the savings program with the asset allocation model (col. 11, line 29- col. 12, line 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the act of coordinating the savings program with the asset allocation model and to modify in Dembo because such a modification would allow Dembo to a selection rate of return

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and interest rate spread as determined as a function of the initial investment and the investor profile.

With respect to claim 62, Dembo failed to teach, The method of claim 57, wherein the one or more asset classes include professionally managed commingled investment vehicles. Champion teaches, wherein the one or more asset classes include professionally managed commingled investment vehicles (col. 4, lines 3-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the one or more asset classes include professionally managed commingled investment vehicles and to modify in Dembo because such a modification would allow Dembo to have an account that will respond to one or several asset groups and various markets (stocks, bonds, gold, etc.).

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Altman et al (US 5,689,649) disclosed an equity load and savings plan.

Ryan et al (US 5,590,037) disclosed an employee benefit program.

Parsons (US 6,411,939 B1) disclosed a benefit plan.

Fox (US 5,132,899) disclosed a stock and cash portfolio.


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Inquiries

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday from 6:30 am -5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


E. Colbert
February 9, 2004